

THOMAS E. FRANKOVICH (State Bar No. 074414)  
JENNIFER L. STENEGER (State Bar No. 202985)  
THOMAS E. FRANKOVICH,  
*A Professional Law Corporation*  
2806 Van Ness Avenue  
San Francisco, CA 94109  
Telephone: 415/674-8600  
Facsimile: 415/674-9900

Attorneys for Plaintiffs  
NICOLE MOSS  
and DISABILITY RIGHTS  
ENFORCEMENT, EDUCATION,  
SERVICES: HELPING YOU  
HELP OTHERS

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

NICOLE MOSS, an individual; and  
DISABILITY RIGHTS, ENFORCEMENT,  
EDUCATION, SERVICES: HELPING  
YOU HELP OTHERS, a California public  
benefit corporation,

Plaintiffs,

v.

MANILA BAY CUISINE; LAND MARK  
TOWNE CENTER, LLC., a Delaware  
limited liability company; AGLOS, LLC., a  
Delaware limited liability company;  
DINKY, LLC., a Delaware limited liability  
company; GF LIBERTY, LLC., a Delaware  
limited liability company; CRIMSUN INC.,  
a California corporation,

Defendants.

CASE NO. C 06-6356 SBA

**DECLARATION OF THOMAS E.  
FRANKOVICH IN SUPPORT OF  
PLAINTIFFS' MOTION TO ALTER OR  
AMEND JUDGMENT**

I, THOMAS E. FRANKOVICH, declare that I am an attorney duly licensed to practice in  
all the courts in the state of California and if called as a witness and duly sworn, I would and  
could competently testify to the following based upon my own personal knowledge:

1. On or about May 2007, the associate attorney, Julia M. Adams, who was  
handling this case left plaintiffs' counsel's firm.

DECLARATION OF THOMAS E. FRANKOVICH

- 1           2.     Prior to May 2007, Ms. Adams made several failed attempts to schedule a joint  
2           site inspection with defendants.
- 3           3.     On March 6, 2007, Ms. Adams sent a letter to counsel for defendants proposing  
4           dates to conduct a joint site inspection. Attached as Exhibit A is the March 6,  
5           2007, letter.
- 6           4.     In that same letter, Ms. Adams requested verification of the modifications that  
7           have been completed. She informed defendants that "[a]cceptable forms of  
8           verification include photographs and/or diagrams along with a detailed  
9           description of what has been modified." See Exhibit A attached hereto.
- 10          5.     On April 5, 2007, Ms. Adams wrote a letter confirming the joint site inspection  
11          scheduled for April 26, 2007. Ms. Adams informed counsel for defendants that  
12          she still had not received documentation from defendants regarding the  
13          remediations. Attached as Exhibit B is the April 5, 2007, letter.
- 14          6.     On April 25, 2007, Ms. Adams sent a third letter confirming the cancellation of  
15          the joint site inspection at the request of defense counsel and proposed a tentative  
16          date of May 10, 2007. Ms. Adams made a third request for documentation  
17          regarding the remediations. Attached as Exhibit C is the April 25, 2007, letter.
- 18          7.     On April 27, 2007, Ms. Adams sent a fourth letter confirming another scheduling  
19          conflict with regards to the joint site inspection tentatively scheduled for May 10,  
20          2007. Ms. Adams proposed an earlier time for the same day. Attached as Exhibit  
21          D is the April 27, 2007, letter.
- 22          8.     After Ms. Adams left the firm, the matter was re-assigned to myself for day-to-day  
23          case management, with my paralegal, Maria V. Martinez to assist me in the  
24          monitoring and management of this matter.
- 25          9.     As Ms. Martinez stated in her Declaration filed in support of this motion, she also  
26          had to reschedule the May 10, 2007, joint site inspection due to counsel for  
27          defendants unavailability. See Martinez Dec. ¶¶4-5.
- 28

10. Defendants allegation that "plaintiffs took absolutely no efforts to prosecute their lawsuit . . . [d]espite repeated attempts by defendants to contact plaintiffs' counsel," (Decl. Grannis, 1:11) is absolutely false as evidenced by the multiple letters sent by Ms. Adams as referenced above.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 24th day of January, 2008, at San Francisco, California.

By: /s/  
Thomas E. Frankovich

EXHIBIT A

THE FRANKOVICH GROUP\*  
LAWYERS

2806 Van Ness Avenue - San Francisco, CA 94109-1426  
Phone: 415-674-8600 • Facsimile: 415-674-9900 • TDD: 415-441-6100

March 6, 2007

Sent via facsimile to 415.421.2234

Sent via facsimile to 650.343.7979

Jessica C. Grannis  
Steyer, Lowenthal, Boodrookas, Alvarez &  
Smith LLP  
One California St., Third Floor  
San Francisco, CA 94111

Nathan Paco  
Law Offices of Nathan Paco  
1419 Burlingame Ave., 2<sup>nd</sup> Fl.  
Burlingame, CA 94010

Re: *Nicole Moss, et al. v. Manila Bay Cuisine, et al.*  
USDC N.D. of CA, Case C06-6356 SBA  
Our Reference: Manila Bay Cuisine  
Subject: Site inspection/barrier removal verification

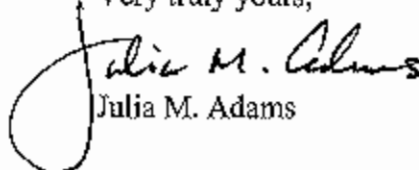
Dear Counsel:

I am writing to propose dates for counsel to conduct a site inspection of the Manila Bay Cuisine Restaurant as is required by the Court. Currently, our office can be available on April 2-5, 23, 25, or the 26<sup>th</sup>. Please let me know which of these dates, if any, that you are available. Once we have set a date for the site inspection, I will prepare and file a stipulation with the Court requesting a continuance of the site inspection deadline.

Additionally, Ms. Grannis informed me today that it was represented to her that the necessary access modifications have already been made to the restaurant. If that is in fact the case, plaintiffs will make a monetary demand to fully resolve this case immediately upon receiving verification of the modifications that have been completed. Acceptable forms of verification include photographs and/or diagrams along with a detailed description of what has been modified. If you choose to provide diagrams, please note that they do not need to be to scale.

Please feel free to contact me should you have any questions or concerns regarding anything I have raised in this letter.

Very truly yours,

  
Julia M. Adams

/jma

\*Thomas E. Frankovich, A Professional Law Corporation  
Accessible Accommodations and Parking at One Daniel Burnham Court, San Francisco CA  
or at Your Home



BY APPOINTMENT ONLY AT ALL LOCATIONS

## BROADCAST REPORT

TIME : 03/06/2007 18:23  
NAME : THE FRANKOVICH GROUP  
FAX : 4156749900  
TEL : 4156748600  
SER.# : 000F4J282170

PAGE(S)

02

DATE	TIME	FAX NO./NAME	DURATION	PAGE(S)	RESULT	COMMENT
03/06 *****	18:22 *****	4212234 3437979	21 00	02 00	OK CANCEL	ECM

BUSY: BUSY/NO RESPONSE  
NG : POOR LINE CONDITION  
CV : COVERPAGE  
PC : PC~FAX

TRANSMISSION VERIFICATION REPORT

TIME : 03/07/2007 12:09  
NAME : THE FRANKOVICH GROUP  
FAX : 4156749900  
TEL : 4156748600  
SER. # : 000F4J202170

DATE, TIME  
FAX NO./NAME  
DURATION  
PAGE(S)  
RESULT  
MODE

03/07 12:08  
16503437979  
00:00:45  
02  
OK  
STANDARD

THE FRANKOVICH GROUP\*  
LAWYERS

2806 Van Ness Avenue - San Francisco, CA 94109 - 1428  
Phone: 415.674.8600

FACSIMILE TRANSMITTAL

DATE: 3/6/07 TIME: 5:30  
TO: Jessica Brando FAX: 421. 2234  
TO: Nathan Pao FAX: 343. 7779  
TO: \_\_\_\_\_ FAX: \_\_\_\_\_  
FROM: Julie Adams FAX: 415.674.9900

# OF PAGES 2  
(including cover)

RE: Moss v. Manilla Bay  
SUBJECT: \_\_\_\_\_

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT B**



Manila Bay  
Consp.

THE FRANKOVICH GROUP\*  
LAWYERS

2806 Van Ness Avenue - San Francisco, CA 94109-1426  
Phone: 415-674-8600 • Facsimile: 415-674-9900 • TDD: 415-441-6100

April 5, 2007

Sent via facsimile to 415.421.2234

Sent via facsimile to 650.343.7979

Jessica C. Grannis  
Steyer, Lowenthal, Boodrookas, Alvarez &  
Smith LLP  
One California St., Third Floor  
San Francisco, CA 94111

Nathan Paco  
Law Offices of Nathan Paco  
1419 Burlingame Ave., 2<sup>nd</sup> Fl.  
Burlingame, CA 94010

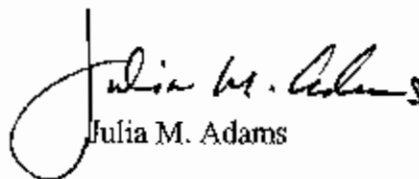
Re: *Nicole Moss, et al. v. Manila Bay Cuisine, et al.*  
USDC N.D. of CA, Case C06-6356 SBA  
Our Reference: Manila Bay Cuisine  
Subject: Site inspection/barrier removal verification

Dear Counsel:

I am writing to confirm that the parties have agreed to conduct a site inspection of the Manila Bay Cuisine Restaurant on April 26, 2007, at 11:00 a.m. Please contact me immediately should you have any questions or concerns regarding the site inspection.

Additionally, I have not received any documentation as to the remediations that have already been completed to this point and/or are planned to be undertaken. If such documentation is provided prior to the site inspection, I will prepare a monetary demand so that we may begin discussing a full resolution of this matter by the time the site inspection occurs.

Very truly yours,

  
Julia M. Adams

/jma

\*Thomas E. Frankovich, A Professional Law Corporation  
Accessible Accommodations and Parking at One Daniel Burnham Court, San Francisco, CA  
or at Your Home



BY APPOINTMENT ONLY AT ALL LOCATIONS

## BROADCAST REPORT

TIME : 04/05/2007 13:27  
 NAME : THE FRANKOVICH GROUP  
 FAX : 4156749900  
 TEL : 4156748600  
 SER.# : 000F4J202170

PAGE(S)

02

DATE	TIME	FAX NO./NAME	DURATION	PAGE(S)	RESULT	COMMENT
04/05	13:26	4212234	20	02	OK	ECM
04/05	13:27	16503437979	22	02	OK	ECM

BUSY: BUSY/NO RESPONSE  
 NG : POOR LINE CONDITION  
 CV : COVERPAGE  
 PC : PC-FAX

**EXHIBIT C**

Manila Bay  
WMS

THE FRANKOVICH GROUP\*  
LAWYERS

2806 Van Ness Avenue - San Francisco, CA 94109-1426  
Phone: 415-674-8600 • Facsimile: 415-674-9900 • TDD: 415-441-6100

April 25, 2007

Sent via facsimile to 415.421.2234

Sent via facsimile to 650.343.7979

Jessica C. Grannis  
Steyer, Lowenthal, Boodrookas, Alvarez &  
Smith LLP  
One California St., Third Floor  
San Francisco, CA 94111

Nathan Paco  
Law Offices of Nathan Paco  
1419 Burlingame Ave., 2<sup>nd</sup> Fl.  
Burlingame, CA 94010

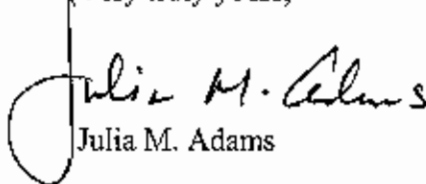
Re: *Nicole Moss, et al. v. Manila Bay Cuisine, et al.*  
USDC N.D. of CA, Case C06-6356 SBA  
Our Reference: Manila Bay Cuisine  
Subject: Site inspection/barrier removal verification

Dear Counsel:

I am writing to confirm that the site inspection for April 26, 2007, at 11:00 a.m. is off calendar. The inspection is tentatively rescheduled for May 10, 2007, at 11:00 a.m. subject to Ms. Grannis's availability.

Additionally, I still have not received any documentation of the remediations that have already been completed to date or are planned to be undertaken. Now that the inspection is being postponed, it would help to speed this matter along if documentation could be provided prior to the site inspection so that a monetary demand could be made in the interim.

Very truly yours,

  
Julia M. Adams

/jma

\*Thomas E. Frankovich, A Professional Law Corporation  
Accessible Accommodations and Parking at One Daniel Burnham Court, San Francisco, CA  
or at Your Home



BY APPOINTMENT ONLY AT ALL LOCATIONS

## BROADCAST REPORT

TIME : 04/25/2007 14:40  
 NAME : THE FRANKOVICH GROUP  
 FAX : 4156749900  
 TEL : 4156748600  
 SER. # : 000F4J282170

PAGE(S)

02

DATE	TIME	FAX NO./NAME	DURATION	PAGE(S)	RESULT	COMMENT
04/25	14:38	4212234	20	02	OK	ECM
04/25	14:39	16503437979	22	02	OK	ECM

BUSY: BUSY/NO RESPONSE  
 NG : POOR LINE CONDITION  
 CV : COVERPAGE  
 PC : PC-FAX

**EXHIBIT D**

THE FRANKOVICH GROUP\*  
LAWYERS

Manila Bay  
Concept

2806 Van Ness Avenue - San Francisco, CA 94109-1426  
Phone: 415-674-8600 • Facsimile: 415-674-9900 • TDD: 415-441-6100

April 27, 2007

Sent via facsimile to 415.421.2234

Sent via facsimile to 650.343.7979

Jessica C. Grannis  
Steyer, Lowenthal, Boodrookas, Alvarez &  
Smith LLP  
One California St., Third Floor  
San Francisco, CA 94111

Nathan Paco  
Law Offices of Nathan Paco  
1419 Burlingame Ave., 2<sup>nd</sup> Fl.  
Burlingame, CA 94010

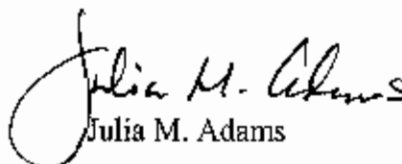
Re: *Nicole Moss, et al. v. Manila Bay Cuisine, et al.*  
USDC N.D. of CA, Case C06-6356 SBA  
Our Reference: Manila Bay Cuisine  
Subject: Site inspection/barrier removal verification

Dear Counsel:

Since my last correspondence, we have developed a scheduling conflict for the proposed site inspection for May 10, 2007, at 11:00 a.m. that is tentatively scheduled. We are still available that day, however, the inspection would have to be moved to 9:00 a.m.

Please contact me at your earliest convenience to discuss whether the change in time is acceptable. If not, we can review additional dates at that time.

Very truly yours,

  
Julia M. Adams

/jma

\*Thomas E. Frankovich, A Professional Law Corporation  
Accessible Accommodations and Parking at One Daniel Burnham Court, San Francisco, CA  
or at Your Home



BY APPOINTMENT ONLY AT ALL LOCATIONS

TRANSMISSION VERIFICATION REPORT

TIME : 04/27/2007 16:37  
NAME : THE FRANKOVICH GROUP  
FAX : 4156749900  
TEL : 4156748600  
SER.# : 000F4J282170

DATE, TIME  
FAX NO./NAME  
DURATION  
PAGE(S)  
RESULT  
MODE

04/27 16:37  
16503437979  
00:00:18  
02  
OK  
STANDARD  
ECM

THE FRANKOVICH GROUP\*  
LAWYERS

2806 Van Ness Avenue - San Francisco, CA 94109 - 1426  
Phone: 415.674.8600

FACSIMILE TRANSMITTAL

DATE: 4/27/07 TIME: 4:40  
TO: Jessica Brannis FAX: 421.2234  
TO: Nathan Peco FAX: 343.7979  
TO: \_\_\_\_\_ FAX: \_\_\_\_\_  
FROM: Julia Adams FAX: 415.674.9900

# OF PAGES 2  
(including cover)

RE: Moss v. Minick Bay  
SUBJECT: \_\_\_\_\_

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



## BROADCAST REPORT

TIME : 04/27/2007 16:43  
 NAME : THE FRANKOVICH GROUP  
 FAX : 4156749900  
 TEL : 4156748600  
 SER.# : 000F4J2B2170

PAGE(S)

02

DATE	TIME	FAX NO./NAME	DURATION	PAGE(S)	RESULT	COMMENT
04/27 04/27	16:35 16:43	4212234 3437979	17 00	02 00	OK BUSY	ECM

BUSY: BUSY/NO RESPONSE  
 NG : POOR LINE CONDITION  
 CV : COVERPAGE  
 PC : PC-FAX